

**ELMWOOD DEVELOPMENT PROJECT
CONDITIONS OF APPROVAL**

GENERAL PROJECT CONDITIONS OF APPROVAL:

SPECIAL CONDITIONS FROM THE PLANNING DIVISION

1. **Public Improvement Plans:** Public Improvement Plans for all public streets shall be submitted to the City as part of the Public Improvement Package. (P)
2. **Parks:** All public parks shall be in place prior to 50 percent of the project (342 residential units) being finalized by the City. (P)
3. **Affordable Housing:** The applicant shall provide a minimum of 20 percent affordable units with the project. It is expected that the applicant will be entering into a Disposition and Development Agreement (DDA) with the City in part to address the affordable housing associated with the project. (P)
4. **MM – Traffic:** Prior to building permit issuance for the residential units, the applicant shall complete and submit a traffic signal warrant analysis for the following intersections: (P, Mitigation Measure TR-1 and TR-2)
 - a. South Main Street and Carlo Way;
 - b. South Main Street and Corning Avenue.
5. **MM – Traffic:** Prior to building permit for the residential units, traffic impact mitigation fees totaling \$1,865,000 shall be submitted to the City. The breakdown of mitigation fees are as provided below: (P, Mitigation Measure TR-4, TR-5 & TR-6)
 - a. Montague Expressway Corridor Fee - \$465,000
 - b. Calaveras Boulevard Corridor Fee - \$1,000,000
 - c. Great Mall Parkway Corridor Fee - \$400,000
6. **MM – Traffic:** Prior to any building permit issuance for the project, the applicant shall construct the following improvements at the north leg of the Elmwood Road/Great Mall Parkway/I-880 ramps intersection: (P, Mitigation Measure TR-7)
 - a. North (Southbound) approach: One right-turn lane, one shared through-left turn lane, and one left-turn lane;
 - b. North Receiving Lane: One northbound lane and;
 - c. All signal modifications associated with these improvements shall be completed.
7. **MM – Air Quality:** Prior to building permit issuance, permit plans shall implement the following Best Management Practices (BMP's) at all project construction sites: (P, Mitigation Measure AQ-1)
 - a. Water all active construction areas;
 - b. Cover all trucks hauling soil, sand, and other loose materials, or require all trucks to maintain at least two feet of freeboard;

- c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking and staging areas;
 - d. Sweep daily;
 - e. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
 - f. Enclose, water or apply non-toxic soil binders to exposed stockpiles;
 - g. Limit traffic speeds on unpaved roads to 15 miles per hour;
 - h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
 - i. Suspend excavation and grading activity whenever the wind is so high that it results in visible dust plumes despite control efforts.
- 8. **MM – Air Quality:** Prior to any permit issuance, permit plans shall include Bay Area Air Quality Management District (BAAMQD) Best Management Practices (BMP's) as identified in Mitigation Monitoring Table. (P, Mitigation Measure AQ-1)
- 9. **MM – Noise:** Prior to building permit issuance, the applicant shall submit a detailed noise analysis for review and approval by the City that ensures that all units have an interior noise level that does not exceed 45 dB DNL. The applicant shall incorporate all noise attenuation recommendations as identified in the noise analysis to meet the 45dB DNL requirement. (P, Mitigation Measure NOI-1)
- 10. **MM – Noise:** During construction, the applicant shall implement the following measures to reduce construction noise: (P, Mitigation Measure NOI-5)
 - a. Construction shall be limited to the hours of 7:00AM to 7:00PM on weekdays, and 9:00AM to 5:00PM on Saturdays, with no noise generating construction on Sundays and holidays.
 - b. Equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.
 - c. Utilize quiet models of air compressors and other stationary noise sources where the technology exists.
 - d. Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
 - e. Prohibit unnecessary idling of internal combustion engine.
 - f. Designate a noise disturbance coordinator who would be responsible for responding to any local complaints about construction noise. The coordinator would determine the cause of the noise complaints and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the coordinator at the construction site.
- 11. **MM – Biology:** Appropriately timed surveys shall be conducted by a qualified botanist according to protocols acceptable to USFWS (US Fish and Wildlife) and CDFG (California Dept. Fish and Game) to determine the presence/absence of special status plant species. If presence is detected notification and appropriate protocols for

relocation and/or mitigation and monitoring plan, to the approval of the City, for the plant species shall be prepared for long-term protection. The plan shall be implemented either before or concurrently with ground disturbing activities on the property. (P, Mitigation Measure BIO-1)

12. **MM – Biology and Hydrology:** The applicant shall modify the existing Stormwater Pollution Protection Plan (SWPPP). This plan shall include provisions to minimize on-site and off-site impacts to biological resources and water quality resulting from project related runoff. Measures shall include the following: (P, Mitigation Measure BIO-2 and HYD-11)
 - a. The use of silt fencing, fiber rolls, sediment basins, and other measures to reduce the movement of construction-related sediments into Penitencia Creek and other sensitive habitats.
 - b. Installation of grit and oil trap systems, which shall be maintained in perpetuity.
 - c. Implementation of BMP's to prevent the discharge of construction debris and soils into Penitencia Creek during site clearing, grading and construction.
 - d. As required, dewatering the section of creek channel surrounding the work areas associated with outfall and bridge construction. The dewatering structure shall be to the approval of the City.
 - e. The applicant shall retain a construction manager familiar with NPDES permit requirements to monitor construction activities.
13. **MM – Biology:** Tree and shrub removal shall not take place between February 15 and August 1 or as determined by the CDFG on a case-by-case basis to ensure no raptor nest establishment occurs in trees and shrubs scheduled for removal. If trees or shrubs are proposed to be removed during February 15 and August 1, the applicant shall comply with all City and CDFG requirements for vegetation removal. (P, Mitigation Measure BIO-3)
14. **MM – Biology:** Prior to any discing for fire or weed control, a burrowing owl nesting/occupancy survey shall be completed on the property. Surveys shall be completed in compliance with all CDFG requirements. (P, Mitigation Measure BIO-4)
15. **MM – Biology:** An approved CDFG Mitigation Agreement shall be complied with by the applicant and shall comply with the protocols contained in the agreement, including but not limited to surveys, passive relocation of the owls, hand-tool burrow removal, and purchase of off-site land for purposes of suitable owl habitat in perpetuity. (P, Mitigation Measure BIO-5)
16. **MM – Biology:** Pre-construction surveys for burrowing owls shall occur no more than 30-days prior to any ground disturbance activities on the site. If owls are discovered, the applicant may use passive relocation prior to February 1, if discovered after February 1, the owls must be left on-site and a 250-foot buffer shall be established and maintained until September 1. (P, Mitigation Measure BIO-5)
17. **MM – Geology:** Prior to approval of the final map or issuance of grading plans, the applicant shall submit a final geology and soils report addressing seismic ground

shaking, liquefaction and other geologic oils seismic issues to the approval of the City. Development of the project shall be in conformance with approved final geology and soils report. (P, Mitigation Measure GEO-1)

18. **MM – Hydrology:** Prior to building permit issuance, the design of storm water collection and conveyance systems shall minimize erosion and other potential problems for on-site and adjacent properties. (P, Mitigation Measure HYD-7)
19. **MM – Hydrology:** Permit plans shall incorporate minimization of on-site areas of impervious surfaces where possible to reduce runoff. (P, Mitigation Measure HYD-8)
20. **MM – Hydrology:** The BMP's of the stormwater control plan shall include the provision of storm drain system signs or stenciling with language to discourage illegal dumping of unwanted material into the catch basins and field inlets. (P, Mitigation Measure HYD-9)
21. **MM – Hydrology:** Prior to building permit issuance, proof shall be submitted to the City that project CC&R's include provisions for BMP's in regards to water quality, including illegal dumping of waste products, measure to reduce discharge, and educational material. (P, Mitigation Measure HYD-12)
22. **MM – Cultural Resources:** All ground disturbing activities shall be monitored by a qualified archaeologist to ensure that any discovery of significant archaeological materials and/or human remains is handled in accordance with approved guidelines. (P, Mitigation Measure CUL-1)
23. **Potted Plants – Materials:** Prior to building permit issuance, the following shall be incorporated into building permit plans: (P)
 - a. Remove the use of potted plant fixtures on the exterior of the buildings
 - b. Use alternative, high-quality, long-lasting materials where possible.
24. **Landscaping:** Prior to building permit issuance, the following modifications shall be incorporated in revised landscaping plans to the approval of the Planning Division: (P)
 - a. 24-inch box specimens shall be used for all trees.
 - b. Permeable paving and unit pavers be used throughout the site, minimally at locations that are used as gathering places or points of pedestrian intersections.
 - c. Curbing shall be used to separate driveways and parking areas from landscaped areas.
 - d. Structural (amended) soil shall be used for all landscaping in the public right-of-way.
 - e. All landscape structures shall be of long-lasting and high-quality materials.
 - f. All ground transformer, utilities, and mechanical equipment shall be located underground or screen from all views.
 - g. A detail of the water fountain feature shall be provided to the Planning Division for review and approval.

25. **Walls and Fences:** Perimeter/property fences shall be of solid construction and be long-lasting and high-quality. (P)
26. **Walls and Fences:** Prior to building permit issuance, permit plans shall show all walls and fences shall be stepped down in height as it approaches any intersection. (P)
27. **Park Wall:** Prior to building permit issuance, permit plans for the wall to the south of the Hetch-Hetchy shall incorporate landscaping on either side, provide elevation changes, and vary the wall face depth to allow for interesting shadow lines. (P)
28. **Lighting:** Prior to building permit issuance, the applicant shall provide a detailed isolumen (lighting level) plan that ensures the site will have adequate lighting. (P)
29. **Lighting:** No low-pressure sodium lighting shall be used anywhere in the project. (P)
30. **Lighting:** No pedestrian lighting fixtures shall exceed 16 feet in height. (P)
31. **Lighting:** Prior to issuance of building permits, permit plans shall incorporate light shields on light fixtures that are in close proximity to existing residential development. (P)
32. **Stormwater:** Prior to building permit issuance, permit plans shall incorporate the following BMP'S for post construction stormwater impacts: (P)
 - a. Labeling and maintenance (annual inspections) of storm drain facilities;
 - b. Storm drain inlet cleaning on an annual basis;
 - c. Street sweeping;
 - d. Roof downspouts drain and flows be directed to landscape areas where possible.
33. **Park:** The following shall be incorporated into final public park plans for the "Elm Park" east of Abel Street: (P)
 - a. Permeable paving be used for any walkways near the Elm trees.
 - b. A low, wrought iron fence (not to exceed 42 inches) shall be installed along the Main and Abel Street boundaries.
 - c. No fencing used at parks shall be of solid construction.
34. **Park:** Prior to building permit issuance, the applicant shall revise the plans to increase the width and improve the walkway from Palmer Street to the proposed new Hetch-Hetchy public park. (P)
35. **Vector Control:** Prior to any construction or grading of the site, a vector control plan shall be submitted to and approved by the City. (P)
36. **Signage:** No approval for signage is provided at this time. All signage will require further review and approval by the City, as per Section 3 of the Sign Ordinance. (P)
37. **Landscaping:** Prior to issuance of building permit, plans shall show that all planter areas have an automatic, self-watering system installed. (P)
38. **Lighting:** Bollard lighting shall not be spaced more than forty (40) feet apart. (P)

39. **Color Permutations:** Prior to building permit issuance, all color permutations for all buildings shall be submitted to the Planning Division for review and approval. (P)

SPECIAL CONDITIONS FROM THE ENGINEERING DIVISION

40. **MM – Hydrology, Utilities:** Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E, Mitigation Measure HYD-5)
41. **Flood:** The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows *that the lots West of Abel Street and a portion of lot 170 of this subdivision is in Special Flood Hazard Zone AO, and the remaining lots are in Flood Zone X. Flood proofing is required for the properties that are within the Special Flood Hazard Zone "AO".* (E)
42. **MM – Hydrology, Flood:** Flood proofing can be accomplished by elevating the structure. Per Chapter 15, Title XI of Milpitas Municipal Code (Ord. No. 209.4) the lowest floor elevation (finish floor) of each structure shall be at least one foot above the BFE and the pad elevation shall be at or above the BFE, *which is 2 feet above the highest adjacent ground for the properties West of Abel Street and one foot above the highest adjacent ground for the Lot 170.* The structures pad(s) shall be properly designed by a registered civil engineer and compacted to meet FEMA's criterion (currently, 95% relative density by the Standard Proctor test procedure, ASTM D-698). In addition, the pad(s) shall extend beyond the building walls before dropping below the base flood elevation, and it shall have appropriate protection from erosion and scour. The applicant's civil engineer shall complete and submit a FEMA Elevation Certificate to the City prior to final building inspection, certifying the "as built" lowest floor elevation. Forms are available in the Engineering Division. Additionally, applicant shall demonstrate that this development will not cause any significant increase in flood levels during the occurrence of the base flood discharge. Any trailers, modular buildings, or pre-manufactured dwelling units located on this site for periods of time greater than one year, shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Regulations. Flood insurance is required for any construction that is financed by government-backed loans. (E, Mitigation Measure HYD-2)
43. **Public Streets:** The design and construction of all public roadways, utility improvements and private streets improvements shall be per City of Milpitas design and specifications (except for the roadway widths, which shall be as shown on the Engineering Services Exhibit "T", dated 10/18/2004). The developer shall submit as-built plans and specification for the existing bridge over Lower Penitencia Creek (C street) and certification by a structural engineer as to design and loading adequacy of the bridge to meet the current Caltrans Bridge standards for a minimum of H20

loading to the satisfaction of the City Engineer; or reconstruct the existing bridge to current Caltrans standards. **The proposed lighting element of the Abel Street improvements shall be extended to the proposed public streets A and B.** (E)

44. **Underground Utilities:** In accordance with Milpitas Municipal Code XI-1-7.02-2, the developer shall underground all existing wires between the utility poles number 1 to 8, with utility poles number 1, 2, 3, 4, 5 and 6 to be removed, as shown on the preliminary tentative map with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision should also be undergrounded.

Also all existing wires between the utility poles number 10 to 16 shall be undergrounded with utility poles 11, 12, 13, 14 and 15 to be removed, if it is determined that these poles carrying voltage is lower than 37.5KV. (E)

45. **Community Facilities District:** Prior to issuance of any building permit, all submitted petitions to annex into the CFD shall be finalized. The developer/property owner shall comply with all rules, regulations, policies, and practices established by the City with respect to CFD including, without limitation, requirements for notices and disclosure to future owners or residents. (E)
46. **MM - Utilities:** Prior to building permit issuance, the developer shall pay its fair share cost of purchasing adequate public system sewage capacity for the respective developments. Fees shall consist of treatment plant fees up to the Master Plan level and connection fees. Impact fees for discharges above master plan levels for sewage collection system infrastructure improvements, and regional plant capacity needs (above the master plan capacities), as determined by the City Engineer. This amount is estimated to be \$466,500.00, as of September 2004, to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee and treatment plant fee. (E, Mitigation Measure UTL-2 & UTL 4)
47. **MM - Utilities:** Prior to any building permit issuance, the developer shall provide for adequate sewage pumping capacity at the Milpitas Main Sewage Pump Station for the respective developments. The developer can fulfill this obligation by payment of \$2,000,000.00 to the City for this purpose. This amount is as of September 2004, and to be adjusted by ENR at the time of payment. (E, Mitigation Measure UTL-2 & UTL-4)
48. **MM - Utilities:** Prior to building permit issuance; the developer shall pay its fair share cost of purchasing adequate public system water for the respective developments, including costs for capacity and storage needs above master plan capacities, as determined by the City Engineer. This amount is estimated to be \$84,860.00, as of September 2004, to be adjusted by ENR at the time of payment. (E, Mitigation Measure UTL-2 & UTL-4)
49. **MM - Utility Fees:** Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, Sewer and water connection fees, sewer treatment plant fees, plan check and inspection deposit. (E, Mitigation Measure UTL-2 & UTL-4)

50. **Form and Agreement:** Prior to building permit issuance, the developer shall submit the following items with the building permit application and pay the related fees prior to final inspection (occupancy) by the Building Division: (E)
- a. Water Service Agreement(s) for water meter(s) and detector check(s).
 - b. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.
- Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s).
51. **Encroachment Permit:** Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit(s) from City of Milpitas Engineering Division. (E)
52. **MM – Biology, Wetland:** Prior to issuance of any grading permit for the commercial development to work within the isolated wetland depression located along western edge of project site, the applicant shall submit plans to Regional Water Quality Control Board (RWQCB) to determine if the isolated shallow depression meets the technical criteria for jurisdictional wetlands subject to regulation by state. If the isolated depressions are under the jurisdiction of RWQCB, the developer shall apply and obtain necessary permits to construct proposed improvements, before a permit for grading at this location can be issued. (E, Mitigation Measure BIO-6)
53. **MM – Biology, Permits from Outside Agencies:** Prior to issuance of any permit for work within and along Penitencia Creek, the developer shall obtain necessary permits from U.S. Army Corps of Engineer, California Fish and Game, and Regional water Quality Control Board (RWQCB) and Santa Clara Valley Water district. (E, Mitigation Measure BIO-7)
54. **Permit from SFPUC:** Prior to start of any work along or within Hetch Hetchy right of way, the developer shall submit construction plan to San Francisco Public Utility Commission (SFPUC) for review and approval, and obtain necessary encroachment permits for the proposed work. (E)
55. **Permit from PG&E:** Prior to start of any work within Pacific Gas and Electric (PG&E) easement, the developer shall submit construction plans to PG&E for review and approval, and obtain necessary encroachment permit for the proposed work. (E)
56. **MM – Biology, Permit from SCVWD:** Prior to start of any work along or within Santa Clara Valley water District (SCVWD) right of way, the developer shall submit construction plans to SCVWD for review and approval, and obtain necessary encroachment permits for the proposed work. (E, Mitigation Measure, BIO-7)
57. **Permit from Caltrans:** Prior to start of work within State (Caltrans) right of way, the developer shall obtain necessary permits from State Department of Transportation (Caltrans). (E)
58. **Construction Staging Plan:** Prior to start of any construction, the developer shall submit construction schedule, construction staging plan and parking plan for the construction workers to Engineering Division for review and approval. The developer will coordinate their construction activities with other construction activities in the vicinity of this project. The developer's contractor is also required to

submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. (E)

59. **Irrigation:** In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, the developer shall: (E)

- a. Provide separate water meters for domestic water service & irrigation service.
- b. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process.

60. **Irrigation:** In accordance with Chapter 5, Title VIII (Ord. No. 238) and Chapter 6, Title VIII (Ord. No. 240) of Milpitas Municipal Code, the developer shall: (E)

- a. Design the common areas and Public Park landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape adjacent to existing or future recycled water distribution lines (except for rehabilitated landscape less than 2500 square feet along the future alignment).
- b. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the Department of Health Services (DOHS) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and Department of Health Services approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.
- c. Protect outdoor eating areas from over spray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing eating areas, walkways, pavements, and any other uncontrolled access areas.

61. **NPDES Permit:** The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb one acre or greater, are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site-monitoring plan must also be developed by the applicant, and approved by

the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)

62. **Standard Drawings:** The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
63. **MM – Hydrology, On-site Utilities:** All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structures, trees or deep-rooted plants are permitted within City easements. (E, Mitigation Measure HYD-6)

VESTING MAJOR TENTATIVE MAP (P-MA2003-4) CONDITIONS OF APPROVAL:

SPECIAL CONDITIONS FROM THE PLANNING DIVISION

64. **General:** This recommendation for approval is for a Vesting Major Tentative Map to subdivide approximately 120 acres into 271 parcels (APN 086-11-013, 086-05-009 & 021). (P)
65. **General:** The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
66. **Park Amenities on the Hetch-Hetchy:** An executed lease with acceptance of the proposed park amenities shall be submitted to the City prior to the recordation of the final map. If the amenities approved by the SFPUC are not in substantial conformance with the amenities shown on the project plans than the applicant will be required to submit revised park plans to the City. These revised plans shall include the same amount of public open space and level of amenities shown on the project plans provided elsewhere. (P)

SPECIAL CONDITIONS FROM THE ENGINEERING DIVISION

67. **Phasing Diagram:** The tentative map shall show the proposed phasing diagram of multiple final maps. Any changes to the phasing diagram will be subject to review and approval of the City Engineer. (E)
68. **Lot Designation:** The tentative map and all final maps shall designate all common lots and easements as lettered lots or lettered easements. (E)
69. **Final Map:** Prior to recordation of any final map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
70. **Final Map:** Prior to issuance of any building permit for residential except for model homes for each type of development (commercial, single family, condominiums), its respective final map shall be recorded. (E)

71. **MM – Hydrology, Drainage:** Show on the tentative map how the site will drain. Drainage facilities outletting sump conditions shall be designed to convey the 100-year flows and protect all buildings. (E, Mitigation Measure HYD-5)
72. **Easements:** The developer shall dedicate on the final map necessary roadway easements for the proposed A, B and C streets, easements for public service utility easements and easements for potable water, recycle water, storm drainage and sanitary sewer purposes, as shown on the Engineering Services Exhibit “T”, dated 10/18/2004. (E)
73. **HOA:** The developer shall establish a homeowner association for the residential development. The homeowner association shall be responsible for the maintenance of the landscaping, walls, private streetlights, common area and private streets and shall have assessment power. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded concurrently with the final map. The CC&R document shall be submitted for review and approval by the City Engineer. (E)
74. **Operation and Maintenance:** Prior to any final map approval, the developer shall execute an Operation and Maintenance agreement for maintenance of the proposed storm water facilities such as detention basins, lagoons, and other best management practices devices. (E)
75. **Condo Plans:** Prior to any condominium map recordation, the applicant shall prepare and submit condominium plans for City review. (E)
76. **MM – Drainage, Drainage Plan:** Prior to any final map approval or issuance of any grading permits, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. In addition, the proposed development is within the existing flood plains, and therefore it should not increase the 100-year water surface elevation on surrounding properties nor should it increase existing flooding. A flood plain analysis shall be prepared to account for all potential flooding sources/constraints affecting the project, to delineate the post development flood plain depth and lateral extend, including overflows resulting from upstream creeks, impact of a new bridge crossing Lower Penitencia Creek and changes in floodplain. All studies shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage/floodplain studies prior to any building permit issuance. (E, Mitigation Measure HYD-1 & HYD-5)
77. **Bonding:** Prior to any final map approval, the developer shall bond for the construction of Abel Street (from Great Mall Parkway to Weller Lane) including signage and striping, street lights, bus stops, streetscape, cross walks, raised landscaped median and Penitencia Creek’s levee landscaping improvements from Great Mall Parkway to the northerly project boundary per design plans for Abel Street. These improvements are currently under design by the City. City will deliver construction plans to the developer for the construction of these improvements, except for the roadway and driveway connections to Abel Street, which shall be

designed consistent with the Abel Street Improvements and constructed by the developer. (E)

78. MM – Hydrology, Public Improvements: Prior to any final map approval, the developer shall obtain design approval and bond for the construction of the following public improvements: (E, Mitigation Measure HYD-5, HYD-6, UTL-1, and UTL-3)

- a.* Public streets A, B, and C, including signage and striping, street lights, streetscape, adequate lighting at streets and driveway intersections with Abel Street and Great Mall Parkway.
- b.* Bridge and maintenance access improvements over and along Lower Penitencia Creek.
- c.* Public utilities including, sewer, water, storm drain and recycle water mains and services, fire hydrants, undergrounding overhead utilities and one new storm drain outfall connection to Lower Penitencia Creek from the west near the existing northerly bridge over Penitencia Creek.
- d.* Parks improvements and amenities including, Hetch Hetchy linear park from highway I880 to approximately 210 feet easterly of S. Main Street as shown on the project's approved Plan Unit Development Plans (PUD).
- e.* A new 21-inch sanitary sewer main on Curtis Avenue from S. Main Street to Abel Street and reconstruction and upsizing of the existing 15-inch sanitary sewer main to 21-inch on Abel Street from Curtis Avenue to the existing 30-inch sanitary sewer line North of Hetch Hetchy right of way.
- f.* Traffic signal installation at the intersection of Abel and proposed B Street and traffic signal modification at the intersection of the Great Mall Parkway and proposed A Street including modifications to this intersection to provide an additional southbound left-turn lane into Great Mall Parkway.
- g.* Penitencia Creek's levee improvements, including landscaping, raising the existing flood wall and Elmwood access road for flood control protection per approved floodplain study.
- h.* A public street connecting proposed A Street to Abbott Avenue, subject to design approval by the City Engineer.
- i.* Relocate the existing 30" sanitary sewer line to proposed C street and if necessary relocate the existing recycle water line within proposed C street to provide adequate clearance for the construction of the proposed wall along this street.

Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings in AutoCAD format upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials.

79. **MM – Hydrology, Bridge over Creek:** Prior to any final map approval, the developer shall acquire necessary right of way from the Santa Clara Valley Water District (SCVWD) for the proposed bridge and utilities to be maintained by the City of Milpitas and other public agencies over Penitencia Creek at the proposed street crossing. (E, Mitigation Measure HYD-4)
80. **Joint Use Agreement:** Prior to any final map recordation, the developer shall process and obtain approval of a joint use agreement between the City and Santa Clara Valley Water District (SCVWD) for the proposed improvements and their maintenance within the SCVWD right-of-way to the satisfaction of City Engineer. (E)
81. **Joint Use Agreement:** Prior to any final map recordation, the developer shall process and obtain approval of a joint use agreement between the City and San Francisco Public Utility Commission (SFPUC) for the proposed improvements and their maintenance within the Hetch Hetchy right-of-way to the satisfaction of City Engineer. (E)
82. **VTa:** Prior to any final map recordation, the developer shall process and obtain approval from Valley Transportation Authority (VTA) for the proposed and necessary Bus Stop improvements, to the satisfaction of City Engineer. (E)
83. **PG&E:** Prior to any final map recordation, the developer shall process plan and obtain approval from PG&E to the satisfaction of City Engineer. (E)
84. **Community Facilities District:** Prior to any final map approval: (E)
- a. The developer shall submit an executed petition to annex into and establish, with respect to the property, the special taxes levied by a Community Facility District (CFD) for the purpose of maintaining the public services. No final map will be approved without receipt of an executed petition for annexation and consent and waiver executed by the property owners for the CFD for the establishment of special taxes. The developer shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents.
85. **Exhibit T:** Make changes as noted on Engineering Services Exhibit "T"(dated 10/18/2004) and submit a revised tentative map for review and approval. (E)

PLANNED UNIT DEVELOPMENT (P-PD2003-1) – WEST SIDE OF ABEL STREET - CONDITIONS OF APPROVAL:

86. **General:** This approval is for 368 total residential units: 165 single-family detached units and 203 single family attached (townhomes). (P)
87. **General:** The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
88. **Single Family Height Limit:** Prior to building permit issuance, the number of three story homes shall be limited on the street that faces the northern residential neighborhood. The homes that are three stories will be required to be strategically placed and proven to the City that they will minimize impacts to the homes to the north, and where proposed, increased landscaping shall be provided to screen views. (P)

89. **Disclosure on commercial:** A disclosure statement shall be provided to all future homeowners, within close proximity (300 feet) to the future commercial uses. (P)
90. **MM – Noise:** Prior to building permit issuance, permit plans shall provide adequate forced air mechanical ventilation so windows may be kept closed for all units with direct exposure to Interstate 880 and Abel Street. These are to include the following units: (P, Mitigation Measure NOI-2)
- a. Units at the west side of the lot north of the correctional facility;
 - b. Units at the north and south sides of the lot north of the correctional facility that are less than 1,200 feet from Interstate 880;
 - c. Units at the east side of the lot north of the correctional facility and less than 250 feet from the centerline of Abel Street;
 - d. All units located at the lot east of Abel Street and adjoining the street.
91. **MM – Noise:** Prior to building permit issuance, permit plans shall incorporate a minimum six (6) foot high solid noise barrier fence (with minimum surface weight of three pounds per square foot) along the northern project site boundary where it adjoins existing single-family residences. (P, Mitigation Measure, NOI-4)
92. **MM – Hazardous Materials:** Prior to issuance of any demolition permit for any golf facility structures, the applicant shall demonstrate to the City, through the use of a registered or licensed professional, that the interiors of the existing golf facility structures have been assessed for ACM's, lead-based paint, and other potentially hazardous materials or waste. Should any materials be found, removal and disposal shall be in accordance with applicable state and federal regulations. (P, Mitigation Measure HAZ-1)
93. **MM – Hazardous Materials:** Prior to issuance of any grading or demolition permit the applicant shall demonstrate to the City, through the use of a registered or licensed professional, that the two ground mounted electrical transformers and their surrounding soils have been tested for presence of PCB's. Should any materials be found, removal and disposal shall be in accordance with applicable state and federal regulations. (P, Mitigation Measure HAZ-2)
94. **Decorative Crosswalks:** Prior to site improvement permit issuance, permit plans shall incorporate raised/decorative crosswalks across driveways. (P)
95. **Pedestrian Access:** Prior to site improvement permit issuance, permit plans shall incorporate at least two (2) access points, spaced evenly across that site, that provides pedestrian access from the project to the park area to the south. (P)
96. **Architecture:** Prior to building permit issuance, permit plans shall incorporate the following modifications to the approval of the Planning Division: (P)
- a. The rear of the buildings shall have an increased variety of architectural treatments/elevation changes/recesses and pop outs, especially for the longer buildings as they currently have a long monotonous elevation.
 - b. On the sides of the buildings, windows shall be offset of each other to minimize privacy impacts.

- c. Gutters and downspouts shall be painted to blend into the building.
 - d. Remove the "Z" design shutters. They do not match the architecture of the buildings and appear out of place. Replace with an alternative shutter design that is more in keeping with the proposed architecture.
 - e. Prior to building permit issuance a site layout of the homes shall be provided for review and approval by the City that shows the building end units proposed at street ends and a complete layout of the single-family homes. A mix of units shall be provided at the end of the streets to discourage repetition in the layout and appearance of the site and repetition shall also be avoided in the single-family homes.
 - f. The architectural treatment in plan 2 of the single family home package shall be modified to not have architectural features that are out of place and disharmonious with the overall building architecture.
 - g. A complete call out of materials used for the project shall be provided on plans.
 - h. All buildings shall have a minimum eave of six (6) inches. (P)
97. **PUD Conditions:** The following conditions shall apply to the project: (P)
- a. No building additions or accessory buildings shall be allowed throughout the project.
 - b. Re-roof materials shall be limited to concrete tiles.
 - c. Building color changes shall be to the approval of the Planning Division.
 - d. Any exterior building modifications shall be to the approval of the Planning Commission,
 - e. No garage conversions are allowed.
 - f. No conversion of gourd floor areas into a bedroom. Planning Division review of the CC&R's to also include this requirement shall be completed prior to building permit issuance.
98. **Recreation Building:** Prior to building permit issuance, the size of the recreation building and multi-purpose room shall have an increase in square footage. (P)
99. **Parking:** The CC&R's shall incorporate a requirement that all garages be used for parking by residents and not for storage. In addition, the CC&R's shall include a prohibition of any resident parking in guest spaces.
100. **Bicycle Parking:** Prior to building permit issuance, permit plans shall show bicycle parking at the recreation area and within the private garage of each unit. (P)
101. **Landscaping:** Prior to building permit issuance, the following modifications shall be incorporated in revised landscaping plans to the approval of the Planning Division: (P)
- a. Landscape areas, planted with trees and shrubs, shall be provided between the garages of the townhouse buildings similar to what is proposed at the rear of the single-family homes.

- b. No use of potted plants on the site, unless it is maintained by the Homeowners Association (HOA).
 - c. Where wood is proposed, alternative materials that are long-lasting and high-quality shall be used where possible.
 - d. Provide trees at the northern end of the “block” for all four (4) rows of townhouses and provide trees on either side of the two (2) “sub” entrances into the site off of the northern spine road.
102. **Walls:** Prior to building permit issuance, permit plans shall show the northern boundary wall be constructed using concrete masonry construction. (P)
103. **Walls:** Prior to permit issuance for the 10 foot wall at the northern edge of the property line, the applicant shall modify the wall to include vertical or decorative elements to break up the long wall elevation. (P)
104. **Walls:** Prior to building permit issuance, permit plans shall show that retaining walls that exceed four (4) feet in height will contain decorative features in its design or shall incorporate landscaping in front of the wall. (P)
105. **Stormwater Control:** Prior to grading or site improvement plan issuance, the applicant shall slope driveways into landscaped areas where possible. (P)
106. **Stormwater:** Prior to building permit issuance, the applicant shall show that the mechanical equipment for stormwater control is maintained on an annual basis by the future Homeowners Association and if any future study shows that one will not accommodate the entire site, an adequate amount will be located on the site to ensure that capacity is met. (P)

SPECIAL CONDITIONS FROM THE ENGINEERING DIVISION

107. **Public Streets:** Prior to issuance of any building occupancy/final inspection for the residential development West of Abel Street which exceeds 50 percent of the residential units on the West side of Abel Street, the proposed public streets A, B and C, including the traffic signal shall be constructed to the satisfaction of the City engineer or as stated on the schedule in the Development and Disposition Agreement, whichever occurs first. (E)

SITE AND ARCHITECTURAL REVIEW (P-SZ2003-6) AND USE PERMIT NO. P-UP2003-26 – EAST SIDE OF ABEL STREET - CONDITIONS OF APPROVAL:

108. **General:** This approval is for a 315 -unit multi-family residential development and Use Permit No. P-UP2003-26 to grant exceptions including number of levels, setbacks, and open space for individual units. (P)
109. **General:** The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
110. **MM – Noise:** Prior to building permit issuance, permit plans shall provide adequate forced air mechanical ventilation so windows may be kept closed for all units with direct exposure to Interstate 880 and Abel Street. These are to include the following units: (P, Mitigation Measure NOI-2)

- a. Units at the west side of the lot north of the correctional facility;
 - b. Units at the north and south sides of the lot north of the correctional facility that are less than 1,200 feet from Interstate 880;
 - c. Units at the east side of the lot north of the correctional facility and less than 250 feet from the centerline of Abel Street;
 - d. All units located at the lot east of Abel Street and adjoining the street.
111. **Site Plan:** Prior to building permit issuance, permit plans shall incorporate the following modifications to the approval of City staff: (P)
- a. To provide an improved connection to the recreation area from the podium buildings, the parking garage immediately to the east of the middle podium building should be moved further north to allow a pedestrian connection across the access road. This will prevent pedestrians from having to cross two driveways to access the recreation area.
 - b. To encourage walkability, pedestrian walkways shall be provided that connect the buildings to Abel Street. There is an inconsistency in the plans, in that the floor plans show an exterior access on the buildings fronting Abel Street, but no pathway is provided on the landscape plans.
 - c. Complete the pedestrian connection from the southern podium building to Abel Street. There is a walkway on the plans that dead ends approximately 20 feet from Abel Street. Complete this walkway to allow pedestrian use to Abel Street and force pedestrians into landscaped areas.
 - d. Provide at least one car wash area for each portion of the project for resident use. This car wash area shall be sloped and drained to the sanitary system.
 - e. Due to problems associated with gates and potential queues extending into Abel Street, no gates shall be allowed for the eastern portion of the project. Staff is already supporting gates into the podium parking area, "multiple" or two layers of gating at different access points can not be supported.
112. **Architecture:** Prior to building permit issuance, permit plans shall incorporate the following modifications to the approval of the Planning Division: (P)
- a. To ensure the longevity of the project, decorative elements shall be constructed of high-quality, long lasting materials.
 - b. The screening for the garage openings shall be decorative and not appear utilitarian, especially since they will be very visible from the pedestrian perspective and Abel Street and Curtis Avenue.
 - c. To announce the entry of the buildings, additional architectural embellishment shall be provided as part of the main lobby entrances.
 - d. A "base" feature shall be provided for the buildings to give the building better balance and to provide a better connection for the pedestrian experience, especially along Abel Street and Curtis Avenue.

- e. The proposed plans do not show the locations of any downspouts or rain gutters. As this will often impact the overall architecture of the building, plans shall be submitted that show how the downspouts and rain gutters are incorporated into the buildings.
 - f. In the architectural plans provided only elevations of the 6 and 8 car garages are provided, prior to any permit approval, submit the 4, 7 and 9 car garages to the City for review and approval.
 - g. A complete call out of materials used for the project shall be provided on plans, including the colors and materials used for the garage buildings.
 - h. All sloped roofs shall have a minimum eave of six (6) inches.
113. **Floor Plan:** Prior to building permit issuance, permit plans shall not have doors in the bathrooms that open up into the sink area, they should open into the walls. (P)
114. **Floor Plan:** Prior to building permit issuance, permit plans shall incorporate a design solution for the small washer and dryer spaces that does not use a drain/collector pan on the floor. Incorporate the drain into the floor without using a pan. (P)
115. **Bicycle Parking:** Prior to building permit issuance, permit plans shall incorporate bicycle parking near the community building/pool area and provide bicycle hooks in other areas of the project (such as private garages and patios) to make up the required bicycle parking. (P)
116. **Landscaping:** Prior to building permit issuance, the following modifications shall be incorporated in revised landscaping plans to the approval of the Planning Division: (P)
- a. Landscaping proposed in the plaza areas shall tolerate low sunlight levels.
 - b. Landscaping and/or fencing shall be used to prevent access in the area behind the garage buildings and the property boundaries.
117. **Stormwater:** Prior to any grading permit, the applicant shall submit for review and approval by the City a pre-construction stormwater control plan. (P)
118. **Stormwater:** Prior to any building permit issuance, the applicant shall submit for review and approval by the City a post-construction stormwater control plan that incorporates mechanical equipment to clean the stormwater runoff prior to discharge into City storm drain systems. (P)
119. **Stormwater:** Prior to grading or site improvement plan issuance, the applicant shall slope parking lot and driveways into landscaped areas where possible. (P)
120. **Drainage of Plaza:** Prior to issuance of building permits, the applicant shall submit an explanation of the drainage of the landscaped plaza area that does not cause any future damage to the building or site erosion. (P)

SPECIAL CONDITIONS FROM THE ENGINEERING DIVISION

121. **Trash Enclosures:** Prior to occupancy permit issuance, the applicant shall construct trash enclosures for the podium buildings (condominium). City review/approval is required prior to construction of the trash enclosures. (E)
122. **Solid Waste Service:** Prior to occupancy permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been designed for each of the podium buildings to the satisfaction of the City Engineer and BFI. (E)

Sylvia, Corning, Palmer Area Neighborhood input for the KB homes development.
These are the concerns/requests that came out of the neighborhood meeting 10/15/2004.

They top five are in order of importance.

1. Larger park with Non-Abel access (Palmer or Sylvia Court access) - 1
2. Traffic and parking impact (can we go to use of parking permits in the neighborhood?) - 2
3. Limit the height of the house facing Sylvia (privacy concerns) - 3
4. Fire, Police and Schools impact (one policeman and no additional fire or school services does not seem enough for an additional ~1800 people) - 4
5. Environmental impact (concern over open space and the owls) - 5
6. Improve Sylvia Avenue sign (make bigger)
7. Neighborhood input on park name and street name
8. Speed bumps
9. In the CC&R's will include the limitations of people and cars
10. Do we have to have the KB Homes development at all?
11. What is the benefit for Sylvia, Corning, Palmer residents?
12. What size and kind of the trees will replace the existing trees? (who's responsible for the trees)

Proposal for the City (Auto Mall)

1. No Auto Mall
2. Make a space undeveloped or a park
3. Why is Abbott not being developed for traffic access?
4. Height and timing of lights
5. Sound wall between auto mall and residential

Troy Fujimoto

From: Dan Sullivan [infection@earthlink.net]
Sent: Tuesday, October 19, 2004 11:56 PM
To: Troy Fujimoto
Cc: suzyd@sbcglobal.net; rpanek@kbhome.com; billyrok@att.net
Subject: Concerns about the KB-Homes plans



KBhomes-1.doc

Hello,

My name is Dr. Dan Sullivan. I am representing the Syliva, Corning, Palmer area neighborhood watch in this matter. I have attached a list of our concerns and input for the proposed development on Abel street, between our neighborhood and the prison.

Overall we have a positive view of the development. The initial plans and clarifications at the meeting at the Fire Station appear to be a good base for a community improvement. However, we do have some concerns and desired changes to the initial plan. We look forward to participating in the process of making this undertaking a positive for the neighborhood, the city, and KB-Homes.

Please review our list and contact me if you need clarification or have further questions.

Thank you,
Dan Sullivan

COMMENTS ON THE PROPOSED ELMWOOD DEVELOPMENT

- ❑ 315 condos, 165 private dwellings, 203 walk-up= 683 total units. 1366 vehicles + (2 per unit) 1706 residents + (2.5 per unit). A small town plopped down in this small area—an instant ghetto.
- ❑ Where do you plan to put the parking garage? There's only on street parking on the south side of Curtis Avenue. For reference look at the parking by the condominiums by the Mall. (I doubt the Elmwood facility will share parking.)
- ❑ The proposed parks and open spaces are quite inadequate. The proposed rezoning is questionable unless it is conditioned upon more parks and open space in the plan.
- ❑ The section designated for condos north of and including the tree area would make a nice city park. At least that much.
- ❑ One half of the land being developed should be devoted to continuing open space and developed and cared for as a City park.
- ❑ The east side of town has a disproportionate share of parks.
- ❑ One sliver park like the ones proposed is located at north Main and Carlo and is laughable. (1/2 block long and 1/2 lot wide.)
- ❑ Area currently designated to be a park is a double row of trees along an old lane to an old large farm house and is also the lane for the high tension electrical service in this area, then a sliver along one side next Elmwood and another to the north of the condos. Pathetic.
- ❑ The original idea for auto sales was planned for the west side of 880—it never materialized—what prompts you to believe it will now on this side—and who wants to be that close to an auto dealership anyway?
- ❑ Will the City gain enough revenue from this to make it worthwhile?
- ❑ Is there any low cost, equal standard housing in this plan?
- ❑ We believe the City of Milpitas has broken faith with the citizens in this part of the City, because when they first purchased the land from the County, they indicated intent to make a sizable portion of it a City park, not just a few scattered acres.

Keith and Lillian Bell
171-1 Ethyl Court
Milpitas Ca 95035
(408) 262-1643

October 11, 2004

City of Milpitas Planning Division
Mr. Troy Fujimoto
455 E. Calaveras Blvd.
Milpitas, CA 95035

Dear Mr. Fujimoto:

As a long time homeowner in Milpitas I am concerned about the City's proposal to allow a new multi unit housing development on South Abel Street.

South Abel Street is the main thoroughfare between the Pines Housing Development, established over thirty years ago, and Downtown Milpitas and all shopping areas.

South Abel Street is already congested and I feel that with the addition of 683 new residential units that the main causeway between South and North Milpitas will become at best undesirable.

Given this scenario coupled with the fact that there are so few parks and outdoor recreational areas in the South Milpitas area there should be a New City Park built on that land.

The City of Milpitas is located in a geographical area that is very conducive to outdoor activities most of the year, but the City is sorely lacking in real outdoor, open-space parks. It does have several small areas, which are primarily conducive for walking; jogging, etc. these areas are not large enough for multi-family outings and can actually be unsafe due to poor lighting and out-of-the-way locations. This is especially true near the area of the proposed housing area.

Mr. Fujimoto make yourself a hero to the residents of the south side of Milpitas and recommend a part for this area rather than increased congestion.

At the *Very Least* dedicate one half of the proposed area as an open-space park.

Sincerely,

Gerald and Joyce Wilhite

Gerald S. Wilhite and Lita Joyce Wilhite
Milpitas Home Owners

ATTACHMENT A

Neighborhood/Community Meeting

A community meeting was held by the applicant with members of the neighborhood on October 7, 2004. The issues brought up during the meeting included parking, size of the park space, accessibility to the parks, privacy, light impacts (from the auto mall), drainage, parking, and the end result of the O'Toole Elms. In addition, staff has received letters that also voiced concerns with the project. A summary and staff's response to the concerns are as follows:

1. *A need for a larger park without access from Abel Street:* The applicant is providing approximately 7 acres of public park space throughout the project and is located to maximum public access. To increase pedestrian access to the Hetch-Hetchy park from the existing neighborhood to the north, **staff recommends** the applicant revise and improve the walkway from Palmer Street to the park.
2. *Traffic and parking impacts on the existing neighborhoods – Parking permits for the neighborhood to the north* The traffic study that was done for the project shows that there will be a decrease in traffic as compared to the current commercial zoning for the property. In addition, the study showed that existing roadway capacity and new roadways and traffic improvements proposed by the project will be adequate to handle any new traffic that is generated from the project.

Currently there is not a parking permit system anywhere in the City. The project is providing the amount of parking as required by the zoning ordinance. While some of the guest parking is being proposed off-site, it is on new streets associated with the project and will not impact the existing developments. Convenience and proximity will encourage future guests to park in close proximity to the site and not in outlying neighborhoods. In addition, because it is guest parking that they are requesting to use on-street parking it will not be a continual occurrence as it would be if it were resident parking off-site.

To ensure that residents do not park in guest parking and to minimize their impacts on street parking, the project will be conditioned that garages are to be used for parking of vehicles and not for any type of storage and no resident shall park in any guest parking spaces.

For the project on the east side of Abel Street, the project is exceeding the parking requirements of the zoning ordinance.

3. *Limit the height of the homes facing Sylvia Street homes:* Because some of the single-family homes could potentially reach a height of 47 feet, **staff recommends** the number of three story homes be limited on the street that faces the northern residential neighborhood. The homes that are three stories will be required to be strategically placed and proven to the City that they will minimize impacts to the homes to the north, and where proposed, increased landscaping shall be provided to screen views. In addition, the applicant is proposing to raise the height of the

4. new wall that would separate the project from the existing neighborhood from 6 feet to 10 feet.
5. *Fire, Police and School impacts:* The school district has reviewed the proposal and has determined that there will be adequate capacity for the new project. In addition, school impact fees will be paid as part of the building permit issuance for the project. The increased residential population from the project would impact the City's Fire and Police Departments and the applicant will make a fair share contribution for any additional needs by the two departments.
6. *Environmental Impacts over open space and owls:* The project is exceeding the amount of open space that would normally be required of a project of this size in the Midtown area. In regards to the burrowing owls, the applicant has a mitigation plan that has been approved by the Department of Fish and Game that provides for passive relocation of the owls and the purchase of additional lands that will be used to permanently protect the species.
7. *Adequate parking for the public parks:* A parking lot, containing 9 spaces, would be provided on the western edge of the Hetch-Hetchy park, in addition there will be street parking created on the north-south road that will access the park. Street parking will be provided for the smaller park located immediately to the west of Abel Street and street parking along Main Street will provide parking for the parks on the east side of the project. It should be noted that the parks proposed are neighborhood and special use parks where it is assumed that not all users will be driving to the parks (as it will not have a large regional draw), it is fully expected that people will walk and bike, thus, not requiring an overabundance of parking.
8. *As part of the purchase of the property by the City was the promise that a sizable portion of the site would be developed as parks:* When the City entered into the agreement to purchase the property, it was determined that there would be a park aspect as part of the purchase. However, it was not promised that there would be one large park, only that there would be a minimum of 6 acres of public park space within the purchase area.
9. *Project of this size will have negative impacts, creation of a "ghetto" area:* Bringing more people into an area does not equate to a deteriorating condition. In addition, the entire project will have a Homeowners Association that will be equipped to maintain the appearance of the project.
10. *No Auto Mall, height and timing of lights:* The City included the future auto mall within the EIR analysis because we were aware of the County's intent to lease the new commercial parcels to auto dealers. No application has been submitted yet for the development of these parcels. Any development proposal will be required to receive an "S" Zone (site and architectural review) approval from the Planning Commission after a public hearing is conducted. Any impacts on the adjacent properties from development of these parcels will be reviewed during as part of that application process.

11. *Why no single level single-family homes?* The Midtown Plan envisioned higher density development in the area. This includes stacked flats, townhouses and development similar in nature to achieve a high density. One story single-family homes are more identified in suburban neighborhoods where land is plentiful and densities are lower. This is not the case in the Midtown area and the City has many other areas where lower densities and one story homes can be found.
12. *North-South traffic access to Abbott Avenue:* This connection would be beneficial to the area. Staff is recommending that the applicant modify the project's circulation system to include this connection.
13. *Sound wall between commercial and residential uses:* The applicant is proposing to separate the two uses by over 60 feet. In addition, heavy landscaping will be proposed to screen the two uses from each other, and **staff recommends** a disclosure statement be provided for any residential units in close proximity to the commercial uses.
14. *Sylvia Avenue sign and speed bumps:* The request must be submitted with a petition with as many names of residents in the neighborhood. This information has already been relayed to the requestor. Once the petition is received, processing of the request can begin. This will ultimately require City Council approval.
15. *Neighborhood input on park and street names:* While no park or street names are being proposed at this time, suggestions can be provided to City staff. The Parks and Cultural Resources Commission makes recommendations on park names to the City Council and the Planning Commission makes recommendations to the City Council for street naming.
16. *Limitation on people and cars:* The City does not regulate car ownership but will ensure that the maximum building code occupancy requirements are met.
17. *Is development even needed?* The project will bring many benefits to the City, including affordable housing, improving the visual appearance of this portion of the City, contributing to public infrastructure improvements that benefit the City at large, increase in property values and adding more housing into a region that desperately needs more housing.
18. *Benefit to existing northern residential development?* The benefits to the community is the creation of over 6 acres of new public parks within walking distance, reduced traffic on South Abel Street (compared to the traffic generated if the site was developed with all general commercial uses), and the new street improvements proposed for South Abel Street.
19. *Size and type of landscaping, and who will ultimately be responsible for maintenance?* The landscaping will have a mix of groundcover, shrubs and trees. Trees that are used to help in screening views will be suitable for this task, as they will be large, with foliage that will not be lost during the winter season. Maintenance of landscaping on private property (including private streets) will be maintained by the Homeowners Association, all public (public streets and parks) landscaping will be maintained by the City. The future homeowners will

participate in a Community Facilities District which will help pay for the maintenance of the new City facilities.

20. *Will the project affect flooding potential?* The project is being designed so that it will not worsen flooding potential for any existing neighborhoods. The applicant has two consultants and have been working with the City and the Santa Clara Valley Water District and later to ensure that there will be no flood impacts to the existing neighborhoods. The drainage plans will also have to be approved by the Federal Emergency Management Administration (FEMA)
21. *Will utilities be above or below ground?* The project will be conditioned to required all utilities lines on or adjacent to the project be undergrounded and any utility boxes (and the like) be either underground or completely screened from all views.
22. *What will happen to the O'Toole elm trees?* The trees will have to be removed for safety reasons and the applicant will replant elm trees to replicate the grove and install a historical interpretive display to acknowledge the history of the trees.
23. *What of the potential for vermin problems once construction begins.* To ensure that there are controls in place for potential vermin problems, the project has been condition to submit a vector control plan prior to any construction or grading of the site.
24. *What is the timing of the project?* It is predicted that construction will begin sometime in Fall 2005, with potential home occupation in early 2006.

ELMWOOD RESIDENTIAL/COMMERCIAL

**PRELIMINARY STORM WATER POLLUTION
PREVENTION PLAN
(PSWPPP)**

Date: November, 2004

Waste Discharge Identification Number: _____

for

ELMWOOD PROJECT

Milpitas, California

Owner/Developer:

***KB Homes
6700 Koll Center Pkwy, Suite 200
Pleasanton, CA 94566
(925) 750-1711***

ELMWOOD RESIDENTIAL/COMMERCIAL

The following are conceptual storm water pollution prevention plan items to be used for planning purposes. A complete SWPPP and Notice of Intent (NOI) to submit to State Water Resources Control Board will be prepared during the improvement plans phase of the project. The following is only a portion of the of the complete SWPPP to be complete at a future date.

1. Site Drainage System

- The project will utilize existing storm drainage facilities and outfalls wherever possible. New, or reconstructed outfalls will require proper permitting from any jurisdiction agencies, the SCVWD and the City of Milpitas.
- All new public facilities will conform to the City of Milpitas standard details.
- The design of storm water collection and conveyance systems will minimize erosion and other potential problems for on-site and adjacent properties.
- On-site areas of impervious surfaces in the residential areas will be minimized where possible to reduce runoff.
- The project residential design includes active and passive open spaces, thereby helping to minimize increases in impervious surfaces and associated site runoff.
- Educational flyers and other materials will be supplied to the residential users to increase their understanding of water quality and best management practices.
- The project will include storm drain system signs or stenciling with language to discourage illegal dumping of unwanted materials into the catch basins and field inlets.
- The commercial uses will include on-site sediment and oil filtering devices for the pretreatment of the major paved areas.

ELMWOOD RESIDENTIAL/COMMERCIAL

2. Water Quality

a. During construction

- The project will implement construction Best Management Practices (BMPs) to ensure that water quality is protected.
- Construction BMPs include the erosion control measures, sediment transfer reduction measures and dust control measures.
- All site contractor and personnel will be trained in proper construction Best Management Practices prior to construction activity. In addition, the site developer will retain a construction manager familiar with NPDES permit requirements to monitor construction activities. These measures would reduce potential construction impacts to water quality.
- The project will use native plants and drought-tolerant landscaping wherever possible. The project will also install efficient irrigation systems, such as drip irrigation and automatic irrigation systems to minimize excess runoff.

b. Post-construction water quality

Residential Areas: (the following items are supplemented by the attached Post Water Quality Control Exhibit dated November 4, 2004).

- The project Homeowners' Association will provide information and instructions to potential project residents (original owners and transfer owners) before paperwork is finalized on their homes, regarding water quality, Best Management Practices.
- Public Education/Participation activities. The Homeowners' Association will provide information to new project residents regarding pollution prevention.
- The project CC&R's will include requirements for the Homeowners' Association to implement the following measures within any common landscaping and open space areas;
 - a) Materials Use Controls, which include good housekeeping practices (storage, use and cleanup) when handling potentially harmful materials, such as cleaning materials, fertilizers, paint, and where possible using safer alternative products;

ELMWOOD RESIDENTIAL/COMMERCIAL

- b) Material Exposure Controls, which prevent and reduce pollutant discharge to storm water by minimizing the storage of hazardous materials (such as pesticides) onsite, storing materials in a designated area, installing secondary containment, conducting regular inspections, and training employees and subcontractors;
 - c) Material Disposal and Recycling, which includes storm drain system signs and stenciling with language to discourage illegal dumping of unwanted materials. The Homeowners' Association will notify project residents of household hazardous waste and used oil recycling.
- The CC&R's for the project will include a prohibition on the dumping of waste products (solid waste/liquid waste and yard trash) into storm drain systems, open space areas, and creeks;
 - The project CC&R's will include provisions for private street, parking lot and storm drain maintenance activities. These activities control the movement of pollutants and removal of them from the pavement through catch basin cleaning, storm drain flushing, street sweeping, and by regularly removing illegally dumped material from the project site. (The City would be responsible for regular storm drain maintenance within the public right of way and other public facilities. The Santa Clara Valley Water District is responsible for regular maintenance and repair of Lower Penitencia Creek.).



POST CONSTRUCTION WATER CONTROL EXHIBIT
WEST RESIDENTIAL
ELMWOOD
MILPITAS, CALIFORNIA

[illegible]

Commissioner Galang asked how the ongoing maintenance costs would be funded. Mr. Lindsay stated that additional funding would be needed to maintain the level of improvements that staff is considering along Main and Able streets. The general fund cannot fund those improvements and the long-term maintenance of them. Staff is looking for additional sources of revenue to fund the maintenance costs. The additional sources being looked at include revenue from Lighting Landscape Maintenance and Community Facilities Districts or other types of assessment districts that would have all properties in the area contributing to the benefit that they are enjoying from the enhanced streetscape. The improvements are providing benefits citywide, but also specifically to the properties in the area. Staff is continuing to research funding sources.

Motion to recommend approval of the Main and Abel Streetscape plans to the City Council.

M/S: Giordano/Sandhu

AYES: 6

NOES: 0

10. ELMWOOD DEVELOPMENT PROJECT WORK SESSION

Mr. Fujimoto provided a brief overview of the Elmwood Development Project, proposal by the applicant to construct 683 new residential units and change the land use designation of 20± acres located on the west side of South Abel Street from "General Commercial" and "Parks and Open Space" to "High Density Residential."

Denise Cunningham, KB Homes South Bay Inc., stated that they have already held one community meeting and heard concerns about parking. She noted that there will be two space garages as well as parking for guests. There will also be rules about parking for homebuyers. There are several locations for public access to parks and parking. She noted another concern from the meeting about a buffer area for the homes and noted there would be a buffer area of about 70 feet including the road and landscaping to the front doors. She also noted that this community would be gated to prohibit commercial traffic. She stated that KB Home will continue to work closely with the City they also plan to go back to the PRCRC on November, 2nd.

Commissioner Mohsin noted the large scale of the project and her concern about guest parking. Ms. Cunningham stated the their plan for parking follows all city requirements. David Obitz, KDG Y Group, noted that the condominium portion of the project east of Able will have a total of 711 spaces for residents and guests and the total guest parking for condominiums is 93 spaces. The complete parking data for the entire project is included in the submittal. He stated that the town homes and single-family homes would have a total of 736 garage spaces and 111 guest spaces. Commissioner Mohsin asked if this is the appropriate ratio. Mr. Fujimoto stated they are required to provide 15% guest parking and their plan appears to have provided this. Commissioner Mohsin noted her concern about parking problems throughout Milpitas.

Commissioner Mohsin asked about public parks and the potential to develop tot lots. She noted that the plans mention four playgrounds. Vice Chair Garcia noted that there is a tot lot next to Able where these heavy traffic and he asked this will be screened about security. Ray Panek, KB Home South Bay Inc., noted that wrought iron fences are typically used so there is visibility, but there is also security.

Vice Chair Garcia noted that this lot is the furthest from units on the west and asked if there is a chance of moving it to the middle. Mr. Panek stated that a difficulty of the site is the geometry of it and they are working to achieve a better circulation and wanted to keep these spaces near public rights of way.

Vice Chair Garcia asked about screening from the jail and living in such a close proximity to it. Mr. Panek stated that his group had spent time at the jail with the Sheriff and that it is a quiet existence. He stated there are only one half dozen units facing the jail and a buffer has been provided including landscaping and 80 feet of Hetch Hetchy. There is a need to screen it, however, there are limits on what can be planted on Hetch Hetchy; for example, they must use shrubs as trees are not encouraged.

Commissioner Sandhu asked about the proposal for a gated community. Mr. Panek stated that gates are proposed to discourage commercial traffic. Commissioner Sandhu asked where the new signal would be location. Mr. Panek stated that they worked with the city's traffic section and a traffic engineer and determined that putting the signal near the Post Office is the best option.

Commissioner Sandhu noted that the plans show various small parks, not one large park. He asked what total acreage of parks is. Mr. Panek stated that there would be 6.5 acres in public parks and, combined with private improvements, about 13 to 14 acres.

Chair Lalwani asked what is being counted as part of a park area. Ross Doyle, RJA, noted that the 6.5 acres are the Hetch Hetchy segment east and west of Able and the Elmwood segment north of Curtis.

Commissioner Galang about the initials KB. Mr. Panek stated that KB Homes is the new name of a company formerly called Kaufman and Broad.

Commissioner Galang asked about amenities and if there would be an indoor gym. Ms. Cunningham stated that there would be a pool and recreation center as well as open space; however, there is not an indoor gym.

Commissioner Galang asked if there is a separate entrance to the single-family homes. Ms. Cunningham stated that the primary entrance is off Able and the area can also be accessed off the existing road that will be improved and widened, as well as the existing road running along the other side of the Hetch Hetchy. Commissioner Galang asked if there would be fencing around the community. Ms. Cunningham said yes, and this is primarily to prevent vehicular access. Commissioner Galang asked if the garages are covered. Ms. Cunningham said yes.

Commissioner Giordano asked a question about the EIR and the flood plain, as the other residential communities in that area pay flood insurance. She asked if the new homes would be required to pay flood insurance. Ms. Jensen with RJA stated that when the grading is done and the homes are built, the first finished floor would be built above the base flood line; then a letter would be sent to FEMA, which would then remove the homes from the flood area.

Commissioner Giordano asked about the rational of entry gates, as there are not entry gates at the project by the Great Mall. Mr. Lindsay stated that Park Metropolitan project next to the Great Mall does not have entry gates, however, the MonteVista apartments across the street from the mall does have them.

Commissioner Giordano asked about Palmer Street. Mr. Panek stated that there were discussions about this area. This is an isolated neighborhood and there is a preference not to have commercial traffic going through. Commissioner Giordano asking about Palmer Street abutting an existing neighborhood that does not have parks and her concern that some of those residents may like to use those facilities. She noted a successful project near Dixon and I 880 where the park was put more centrally within the complex. She asked about the ratio of residential units to the amount of park space that is plan. Mr. Lindsay stated that this touches on a bigger issue. The Dixon Landing project was built on a suburban model, however, what KB Homes is proposing is more urban and is consistent with what the City is looking for in the downtown area. The park design is more linear, however, the requirements for open space are being met, but it is a different open space model.

Commissioner Giordano asked what the lot sizes are for the single family detached homes. Mr. Panek stated that the lot size is less than 3,500. Commissioner Giordano asked about the width of the street and if there is room to park and pass around cars. Mr. Panek stated that no parking would be allowed and the streets are 20 feet wide, in addition to a 5-foot apron to the garage door; also, there are parking pockets placed on ends of streets. Commissioner Giordano stated her concern about no parking in front of single-family homes. Mr. Panek stated that this is a product that has come through in San Jose. Commissioner Giordano asked about the mix of a variety homes. She asked about creating more open space, raising the density and not having single-family homes.. Mr. Panek stated that it was designed this way due to market studies and they also want to have some differentiation from what already exists on Able. He noted that these units are for a different life style with a bigger floor area and that it is a better priced product. Commissioner Giordano suggested the elimination of Elm Park on one side and bringing that to the central area to allow for a more user friendly park which would makes sense for the community in it's entirety.

Chair Lalwani asked about the triangle park and noted that people residing on the furthest end are at a disadvantage. She asked if this could be split to accommodate another triangle park on the other side or near the center. Mr. Panek stated that there is a private park space in the middle with the idea that one side would be using private amenities and folks from the other neighbor hood would use the park in their area. Chair Lalwani asked about the park area near the pool and if it is a park or a green area. Mr. Panek stated that he wouldn't call it a park, as it is a lawn area. He noted there is a clubhouse with restroom facilities, a kitchen, and a community meeting room, and they are working on putting a play structure there. Ms. Cunningham noted that she spoke in error earlier and there is a gym in the recreation center for the condominiums.

Chair Lalwani asked if a price range for the single-family homes has been determined. Mr. Panek stated that the starting price will be determined the week before sale, however, they are targeting some ranges along with an affordable component. He noted that their proformas are starting around \$350,000 for condominiums; \$400,000 to \$425,000 or higher for townhomes and in the \$500,000 and higher range for single-family homes.

Chair Lalwani noted that this is a work session and thanked everyone for their comments.

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ATTACHMENT B

EIR Public Meeting

A public meeting was held on October 20, 2004 in regards to the proposed Environmental Impact Report (EIR) related to the project. At the meeting, questions and concerns were brought up in regards to the document. While responses will be provided in the Final EIR, the following is a list of the issues brought up at the meeting:

1. Adequacy in meeting the Midtown Plan park and open space policy of encouraging a 10-acre site:
2. School impacts, whether the existing school can handle the influx of new students?
3. Stormwater and drainage concerns at Penitencia Creek, can the existing creek handle the new flows:
4. Overall general vehicular access and circulation around the site:
5. Noise impacts, is the existing boundary wall tall enough to mitigate noise impacts onto the northern residential uses?